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2014 WORKERS' COMPENSATION LEGISLATIVE CHANGES

This is a general overview of workers' compensation legislation passed by the 108th General Assembly. For a complete, detailed review of this information and all workers' compensation bills introduced in this legislative session, please go to www.capitol.tn.gov.

MAXIMUM & MINIMUM BENEFIT CHANGES

Temporary Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2014 through June 30, 2015 is \$932.80 or 110% of the state's average weekly wage.

Permanent Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2014 through June 30, 2015 is \$848.00 or 100% of the state's average weekly wage.

Minimum Weekly Benefit – The minimum weekly benefit rate for injuries occurring July 1, 2014 through June 30, 2015 for both temporary and permanent benefits is \$127.20.

LEASED OWNER OR LEASED OWNER/OPERATOR

Public Chapter 633 (SB2251/HB2105) altered the terms of T.C.A. § 50-6-106(1)(B), which addresses types of employments not covered by the workers' compensation law, by requiring the leased owner/operator to "establish the validity of and satisfy the terms and conditions of all contractual agreements between the parties prior to the payment of any claim for workers' compensation." Public Chapter 633 essentially codified the case law rulings that had previously addressed the requirements that a leased owner or leased owner/operator of a commercial truck must satisfy before they can recover workers' compensation benefits through a policy that was procured through contract with a common carrier. In addition, Public Chapter 633 established the venue for any contract dispute related to the claim and also provided for the tolling of the statute of limitations on the leased owner or leased owner operator's workers' compensation claim until the contract dispute has been resolved. Governor Haslam signed Public Chapter 633 into law on April 4, 2014, and has an effective date of July 1, 2014.

THE UNINSURED EMPLOYERS FUND BENEFIT PROVISION ACT

Public Chapter 765 (SB1646/HB1441), which is commonly referred to as "The Uninsured Employers Fund Benefit Provision Act," gives the Administrator of the Division of Workers' Compensation discretion to pay up to \$40,000 of temporary disability and medical benefits to a qualifying employee who suffers an injury on or after July 1, 2015, in the course and scope of

employment for an employer who violated the law by failing to carry workers' compensation insurance. The payment will be made from the balance remaining in the Uninsured Employers Fund after all statutory expenses have been paid. To qualify, an employee must have suffered an injury while working for an uninsured employer and must pursue a claim against the employer in the court of workers' compensation claims. If the employee prevails on the claim, the Division can file a lien against the employer's property to cover the benefits paid to the employee from the Fund. Public Chapter 765 was signed into law by Governor Haslam on April 24, 2014, and it will allow the Administrator to begin paying benefits to injured workers from the Uninsured Employers Fund on July 1, 2015.

OMBUDSMAN PROGRAM

Public Chapter 837 (SB2088/HB1786) strengthened and clarified the role of the workers' compensation ombudsman by specifically outlining some areas of the ombudsman's authority including the authority to communicate with all parties or providers involved with a claim for benefits, facilitate exchange of medical records, and assist with completion of forms. Public Chapter 837 makes clear that self-represented parties have a right to consult the ombudsman and receive services and that those services are to be terminated upon retention of counsel. Public Chapter 837 also makes clear that the party who obtains legal has the duty to notify the Division when legal counsel is retained. In addition, Public Chapter 837 prohibits an ombudsman from being called as a witness in any proceeding and also prevents a workers' compensation judge from considering any statement or representation made to an ombudsman for any purpose. Public Chapter 837 was signed into law on April 29, 2014, and has an effective date of July 1, 2014.

THE WORKERS' COMPENSATION REFORM ACT OF 2013

Public Chapter 903 (SB1645/HB1440) makes minor language changes to the workers' compensation law that will help ensure that the Workers' Compensation Reform Act of 2013 operates as it was intended. In addition to the language changes, Public Chapter 903 also amends T.C.A. § 50-6-412 by changing the procedure through which penalties are assessed against employers who have violated the law by failing to provide workers' compensation coverage to their employees. Additionally, Public Chapter 903 establishes an alternative method for permanent partial disability benefits that will allow workers' compensation judges to deviate from the standard permanent partial disability schedule found in T.C.A. § 50-6-207 and provide up to two hundred and seventy-five weeks of benefits in extraordinary cases when certain thresholds are met. Governor Haslam signed Public Chapter 903 into law on May 13, 2014, and the penalty procedure became effective upon signing. The remaining sections have an effective date of July 1, 2014.